

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON**

**OPAL R. SLONE, individually and
as the Administratrix of the Estate
of Jacqueline Hudson, and THE
ESTATE OF JACQUINE HUDSON**

Plaintiffs,

v.

**CIVIL ACTION NO.: 3:23-CV-00636
HONORABLE ROBERT C. CHAMBERS**

JEFFREY RACER, et al.

Defendants.

DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO SEAL

COME NOW, the Defendants, the Cabell County Sheriff's Office, Sheriff Chuck Zerkle, and Cabell County Commission, by counsel, Wendy E. Greve, Benjamin B. Vanston and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, and pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, and for their *Response to Plaintiff's Motion to Seal*, state and aver as follows:

On September 9, 2024, Defendants Cabell County Sheriff's Office, Sheriff Charles Zerkle, and the Cabell County Commission (collectively, the "County Defendants") filed their responses to Plaintiff's *Motions for Summary Judgment on Negligence* (ECF No. 108) and *Substantive Due Process* (ECF No. 110). Defendant Racer filed his responses to the same motions. (ECF Nos. 105 and 106). Subsequently, Plaintiff moved to place certain exhibits to Defendant Racer, Jr.'s exhibits under seal and, within the motion, discussed the exhibits to the County Defendants' motion as well. (ECF No. 113).¹ The

¹ Specifically, ECF Nos. 108–1 and 110–1 (Deposition of Defendant Racer, Jr.); ECF Nos. 108–4 and 110–3 (Deposition of N.S.); and ECF Nos. 108–6 (Deposition of Plaintiff) each contain protected information.

Court ordered a briefing schedule with respect to Plaintiff's Motion to Seal, and, subsequently, ordered the County Defendants to file a memorandum of law in support of their Motion to Seal *ECF No. 108 and ECF No. 110 and the Accompanying Exhibits to Each Response* "[t]o address the issue of whether these documents should remain permanently sealed." (ECF Nos. 113 and 119).

The County Defendants incorporate and adopt as if fully stated herein their previously filed *Memorandum of Law in Support of Motion to Seal ECF No. 108 and ECF No. 110 and the Accompanying Exhibits to Each Response* argument with respect to whether the exhibits at issue should remain under permanent seal. (ECF No. 123).

CONCLUSION

WHEREFORE, the Defendants, the Cabell County Sheriff's Office, Sheriff Chuck Zerkle, and Cabell County Commission, respectfully request this Honorable Court to enter an order keeping the exhibits at issue permanently under seal because they are unredacted versions of documents containing protected information and Defendants to re-file the exhibits with the protected information at issue redacted. Further, the County Defendants request this Honorable Court to order the re-filing of their *Response to Plaintiff's Motion for Summary Judgment* (ECF No. 108) to remove a partial reference to the confidential information contained in an exhibit, and any other and further relief the Court deems necessary.

Plaintiffs have previously represented that ECF No. 108–5 contains information which was produced as confidential pursuant to the Court's Protective Order. The County Defendants take no position on whether ECF No. 108–6 should remain under permanent seal.

**Cabell County Sheriff's Office, Sheriff
Chuck Zerkle, and Cabell County
Commission,
By Counsel,**

/s/ Benjamin B. Vanston

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CERTIFICATE OF SERVICE

I hereby certify that on the **18th** day of **September 2024**, I electronically filed **DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO SEAL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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